Prisons II/52(R)

1952.

File No.

Legal Department-

B **BRANCH**

P.5(E)

K

Subject:— Rules under the Prisons Act, 1894

File No. Prisons II/52-(K)

Gen. 194 e.

232-B

Legal Department.

A revised draft notification in place of H.D. draft is sent herewith.

As employment of prisoners for private work is now being completely prohibited by the proposed rule 1326, it is not necessary to retain the words "except as provided by rule" occurring in rule 69. These words are also being accordingly deleted by clause (1) of the revised draft.

Sd/- S.L.Chaudhari
15.2

Deputy Secretary to Government.

U.R. H.D. No. 2570, dated the 16th February 1952.

V.H.D./2.7
40.

LEGAL DEPARTMENT.

The security bond need not be attested by a magistrate. It may be executed in the presence of the Superintendent of the Prison concerned.

Sd/-
21.4
Solicitor to Government.

U.R. to H.D. No. 6177 , dated the 23rd April 1952.

V.M.D./2.7
40.

R.I.No. 345/12.4.52.

Legal Department.

In place of the draft notification at page 27 ante, a revised draft is sent herewith.

2. No reference is made to detenus in the revised draft. Necessary provision for female detenus if desired may be made in the Bombay Conditions of Detention Order, 1950. It appears that clause 19 of the said Order would not be applicable in such matter.

3. As regards the query made by Secretary, Home Department at page 27 ante, it may be pointed out that the Prisions Act uses the expression female prisoner e.g., sections 24(3) and 27(1). It is therefore, necessary to use the same expression in the Rules.

Sd/-
6.5
Additional Deputy Secretary to Government.

U. R. to H.D., No. 7220, dated the 7th May 1952.

V.M.D./2.7
Lo.

Legal Department.

A revised draft notification is sent herewith.

2. It is true that under the Code of Criminal Procedure a convicted person has a right to appeal only once. Attention, however, is invited to articles 132 and 134 of the Constitution of India. Under those articles an appeal can lie to the Supreme Court with respect to the matters specified in those articles. Rule 468, therefore, in so far as it provides that a prisoner can appeal only once to a judicial court, is not in order.

3. Secondly, the said rule debars the prison authorities from forwarding a revision application to the High ~~Court~~ Court. It is not clear why a prisoner has been precluded under rule 468 from forwarding a revision application through the prison authorities, in the same ~~way~~ way as he does a petition of appeal, to the High Court. Under rule 465A, however, the prison authorities are required to forward petitions from a prisoner to the High Court. The term "petition" is wide and would include revision applications also. The two rules 468 and 465A are therefore inconsistent with each other. For these reasons rule 468 may be deleted. The revised draft provides accordingly.

4. It would appear that it would be necessary to provide that all petitions of appeal as also the revision applications made by a prisoner should be forwarded by the prison authorities to the Courts concerned. Now rule 465A provides accordingly.

5. Home Department will no doubt consider from the administrative point of view the consequential amendments to be made in rules 461 to 465 in the light of the above observations.

Sd/- S.L.Chaudhari.
23.8
Deputy Secretary to Government.

U.R. to H.D. No. 13332 dated the 26 th August 1952.

Legal Department.

The proposed amendment falls under clause (27) of Section 59 of the Prisons Act, 1894. Rule 172, provides for scale of diet for prisoners confined in Sub-Jails. Clause (26) of section 59 empowers Government to make rules for extending all or any of the provisions of the Act & and rules thereunder to Subsidiary Jails . . . and prisoners confined therein. Unless therefore the provisions of clause (27) of section 59 have been extended to Subsidiary Jails, it would not have been feasible to amend the said rule 172. Para 2 of the Introductory of the Sub-Jail Manual enumerates the sections which have been extended to such Jails. As From the copy of the Manual obtaining in the Department it was not possible to locate the exact number and date of the notification under which such extension was made and ~~thereof~~ therefore the Home Department was requested to fill in the number and date of the notification. The correct number and date of the notificati n has now been verified and inserted in the draft notification at page 8 35 ante.

Sd/-
16.9

Additional Deputy Secretary to Government.

U.R. to H.D. No. 15255/H , dated the 17th September 1952.

V.M.D./2.7
40.